UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2002/133
31 January 2002

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Items 6, 7, 10, 12, 13, 14, 15, 17 and 18 of the provisional agenda

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

THE RIGHT TO DEVELOPMENT

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE

RIGHTS OF THE CHILD

SPECIFIC GROUPS AND INDIVIDUALS

INDIGENOUS ISSUES

PROMOTION AND PROTECTION OF HUMAN RIGHTS

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

Comments submitted by the World Health Organization (WHO)

A summary of WHO initiatives and activities that are of relevance to the work of the Commission on Human Rights received by the Secretariat is reproduced in the annex to the present document.*

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* Reproduced as received, in the language of submission only.

GE.02-10552 (E) 060202

Annex

United Nations Commission on Human Rights

Fifty-eighth Session

Written submission by the World Health Organization

Items 6, 7, 10, 12, 13, 14, 15, 17 and 18 of the provisional agenda

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Introduction

The World Health Organization welcomes the opportunity to provide written input to the Commission on Human Rights concerning WHO initiatives and activities of relevance to the agenda of the Commission's fifty-eighth session. Given the number of relevant WHO activities, this document has selected examples of ongoing work of relevance to items 6, 7, 10, 12, 13, 14, 15, 17 and 18 of the Commission's provisional agenda.

General Information

The relationship between health and human rights

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being, as enshrined in WHO's constitution adopted over 50 years ago.[1] WHO's more recent Corporate Strategy sets out human rights as a new emphasis of work, recognizing a broader approach to health in the context of human development and humanitarian action.

WHO recognizes that there are complex linkages between health and human rights:

- Violations or lack of attention to human rights can have serious health consequences;
- Health policies and programmes can promote or violate human rights in the ways they are designed or implemented;
- Vulnerability and the impact of ill health can be reduced by taking steps to respect, protect, and fulfil human rights.

WHO's health and human rights work areas

WHO is actively strengthening its focus on human rights and has identified six broad areas of work for 2002-3, as follows:

1. Development of a WHO health and human rights strategy
2. Enhancement of the knowledge base of rights-based approaches to development and their application to health
3. Development of tools to integrate human rights in health development policies and programmes
4. Strengthening of WHO's capacity to identify and address the human rights implications of its work
5. Providing technical support to Member States to integrate human rights in health development polices and programmes
6. Supporting the United Nations human rights system and other partners in advancing health as a human right and other health-related rights

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[1] *Basic Documents*, Forty-third Edition, Geneva, World Health Organization, 2001. The Constitution was adopted by the International Health Conference in 1946.

Agenda item 6: Racism, racial discrimination, xenophobia and all forms of discrimination

WHO welcomes the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in September 2001. It reflects many of the issues outlined in WHO's written contribution to the Conference.[2] It also reflects issues specifically related to stigma, discrimination and HIV/AIDS which were identified at the joint panel event with UNAIDS and the Office of the High Commissioner for Human Rights entitled Exploring the link: HIV/AIDS, stigma, discrimination and racism.

The Programme of Action agreed at Durban "Encourages the World Health Organization and other relevant international organizations to promote and develop activities for the recognition of the impact of racism, racial discrimination, xenophobia and related intolerance as significant social determinants of physical and mental health, including the HIV/AIDS pandemic, and access to health care, and to prepare specific projects, including research, to ensure equitable health systems for the victims."[3] WHO has several ongoing programmes which respond to this, in particular the WHO programme on indigenous health, which is currently taking initial steps towards the production of a Global Strategy on Indigenous Health at the request of the World Health Assembly, and initiatives on ethnicity and health related to Afro-descendant and indigenous peoples undertaken by the Pan-American Health Organization, WHO's regional office for the Americas.

Agenda item 7: The right to development

The Declaration on the Right to Development, recognized that "the human person is the central subject of development and should be the active participant and beneficiary of the right to development."

WHO welcomes progress made in clarifying the scope, content and implications of the right to development and wishes to draw attention to article 8 of the Declaration which states that "States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income…"

The links between poverty, development, and health are becoming increasingly clear. The report of the Commission on Macroeconomics and Health reflects the increasing recognition that poverty is both a cause and a consequence of ill health. It provides data and analysis which confirms that a significant scaling up of investments in health for poor people will not only save millions of lives but also produce considerable economic

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[2] *WHO's Contribution to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Health and freedom from discrimination.* (Health & Human Rights Publication Series, Issue No.2, August 2001).

[3] World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Programme of Action, Paragraph 154.

gains. In other words, investments in health would not only support governments in fulfilling their human rights obligations but may also generate up to a six-fold return on investment.[4] The report backs up its claims by examining in detail the links between health, poverty reduction and economic growth. It produces evidence to challenge the traditional argument that health will automatically improve as a result of economic growth, demonstrating clearly that, on the contrary, improved health is a prerequisite for economic development in poor societies. In its agenda for action, the report argues for an increase domestic spending on health in developing countries, aiming at an average increase in budgetary allocations of 1% of GNP in the next five years, and of 2% by 2015. Financing of a basic package of essential health interventions and strengthening the necessary delivery systems will also require a massive increase in development assistance for health, from current levels of about US$6 thousand million a year to around US$ 27 thousand million annually by 2007, and US$38 thousand million annually by 2015. The Commission on Macroeconomics and Health therefore strongly supports the establishment of the Global Fund to Fight AIDS, Tuberculosis and Malaria.

WHO has worked intensively as a member of the transitional working group of the Global Fund to Fight AIDS, Tuberculosis and Malaria over the past year, in light of WHO's efforts to scale up and intensify responses to the health conditions associated with poverty. The purpose of the Fund is to attract, manage and disburse additional resources through a new partnership between the public and private sectors and non-governmental organizations that will make a sustainable and significant contribution to the reduction of infections, illness and death, thereby mitigating the impact caused by HIV/AIDS, tuberculosis and malaria in countries in need, and contributing to poverty reduction as part of the Millennium Development Goals.

Agenda item 10: Economic, social and cultural rights

The right to health

WHO is currently working to increase awareness and understanding of the scope, content and application of the right to health through the development of training modules and various other educational materials, such as a "Questions & Answers on Health and Human Rights" and a cartoon on the right to health. Furthermore, as part of basic building-blocks to develop a solid foundation for WHO's emerging work on health and human rights, an annotated bibliography on health and human rights and a global database on health and human rights actors is being developed. WHO is also undertaking a global study to assess the extent that the right to health has been enshrined in national constitutions and other legislative frameworks. Finally, in the context of WHO's work to assess the performance of health systems, work has been undertaken to consider human rights perspectives and how they far they can inform the concept of responsiveness.

[4] The Commission estimates that, by 2015-2020. Additional spending on health of US$66 thousand million per year could generate at least US$360 thousand million- a six fold return on investment.

Resolution 2001/33 Access to medication in the context of pandemics such as HIV/AIDS

WHO, alongside its UN partners, has played an important role in lowering the cost of AIDS medicines through the Accelerating Access Initiative. Increased access to antiretroviral therapy will serve to strengthen the link between HIV prevention and care which, in turn, will reduce stigma and discrimination, encourage uptake of counselling and testing and offer new opportunities for prevention. Progress has been made in developing standardized antiretroviral therapy protocols for use in resource-poor settings. In October, 2001, a global expert consultation agreed on major guidelines for such treatment, bringing us considerably closer to effective and safe use of antiretroviral medicines in places where the use of these drugs have until now been impossible.

Agenda item 12: Integration of the human rights of women and the gender perspective:

As stated in the WHO Programme Budget 2002-2003, "gender considerations are being incorporated in the planning and achievement of expected results in all areas of work". Gender factors are important to understand in order to improve health globally. Risk factors and exposures may differ between men and women; the manifestation, severity, frequency and consequences of disease may be different, as well as the access to health services. Even the social and cultural responses to disease may differ according to gender. WHO is gathering more evidence on how gender impacts on all these aspects of women's and men's health and in identifying mechanisms to strengthen the integration of gender into all of its work.

a) Violence against women

Every day, around 4,500 people die violent deaths. These include over 2,200 suicides; nearly 1,400 homicides, and almost 900 war-related deaths. In addition, far too many women experience violence by intimate partners. Preliminary analysis of data from an 8 country WHO Study on Domestic Violence in women 15 to 49 years, is finding that between 23% to 69% of women, depending on the site, have experienced physical or sexual violence by an intimate partner in their lifetime(data from 3 countries). Between 5 to 20% of women report having been sexually abused before the age of 15 (data from 4 countries). The Study has also documented strong associations between women experiencing violence and various health indicators, including suicide ideation and a measure of mental distress. The WHO Study is collecting information on the prevalence of different forms of violence against women, its health consequences and risk and protective factors for intimate partner violence as well as studying the strategies that women use to deal with this violence. This information will be used in countries and globally to guide the development of policies and strategies to respond to the problem. Emphasis has been placed on protecting ethical standards and ensuring the safety of women in the collection of information. In countries where WHO has conducted research this has already served to raise awareness, sensitise and build capacity on gender and gender based violence, as well as establishing a pool of people competent to address this problem. WHO is also working to strengthen the response of the health sector to

sexual violence against women and children through research, reviews on various issues and the development of guidance documents.

WHO is also undertaking several activities related to human rights concerning the prevention of all forms of interpersonal violence, including violence against women. One such important initiative is a review of international law and human rights instruments as a base for the improved prevention of interpersonal violence. This project aims to define the scope of international legal instruments that are relevant to interpersonal violence, and collate and analyse the content of such instruments – be they binding or non-binding – in terms of their targets (e.g. risk factors, risk groups) and other dimensions (e.g. sector and legal status). Another activity began in November 2001, when WHO initiated a meeting between 11 United Nations agencies, including the Office of the High Commissioner for Human Rights, on the subject of interpersonal violence prevention and how the presently fragmented activities of the different agencies toward preventing interpersonal violence could be replaced by better inter-agency co-ordination which would result in a stronger prevention effect. The participants agreed to a number of follow-up activities which will be coordinated by WHO, including publication of a guide to United Nations resources and activities for interpersonal violence prevention, an inter-agency web-site and follow up meetings. Finally, the forthcoming World Report on Violence and Health should be noted as both a call to action and an invaluable resource for preventing violence.

Agenda item 13: Rights of the child

A long-term strategy for advancing child and adolescent health and development will de developed at a Global Consultation on Child and Adolescent Health and Development in March, 2002. This, in turn, will help in laying the foundation for the role of health in the United Nations General Assembly Special Session on Children and setting the course towards the Millennium Goals that will determine the outcomes for children and adolescents in the coming decades. There are obvious areas where immediate action is needed to safeguard children's right to health, including supporting the fulfilment of the obligation of states parties to the Convention on the Rights of the Child to diminish infant and child mortality. For example, millions of children's lives could be saved by child immunization. The Vaccine Fund has already supported 53 of the 74 GAVI (Global Alliance for Vaccines and Immunization) eligible countries, accounting for nearly half the world's population. At the same time, WHO is committed to supporting the goal of halving the number of measles deaths by 2005. Infant feeding is another crucial area for ensuring, to the maximum extent possible, the survival and development of the child, in accordance with article 6 of the Convention, is. The WHO draft global strategy for infant and young child feeding is the fruit of more than two years of collaborative effort, together with UNICEF, that has involved not only well over 100 Member States, but also nongovernmental organizations and other members of civil society.

Agenda item 14: Specific groups and individuals

a) Migrant workers

WHO is collaborating in a project on the health and human rights of migrants with the Office of the High Commissioner for Human Rights, the International Labour Organization, and several non-governmental organizations. This project recognizes that health risks are increased because of the vulnerability which results from migrants' incomplete enjoyment of human rights. It, therefore, aims to reduce the vulnerability of migrants, and thus, risk and impact of ill-health, by enhancing their health and human rights protection in national health policies and legislation.

d) Other vulnerable groups and individuals

By addressing discrimination on the basis of race, sex, religion and other internationally recognized grounds, vulnerability to ill health can be reduced. The grounds for non-discrimination in international human rights law have evolved and expanded over time and in light of changing realities. Physical and mental disability, and health status in general, including HIV/AIDS, have been explicitly incorporated in the list of proscribed grounds for non-discrimination in health through the adoption of the General Comment on the Right to Health by the Committee on Economic, Social and Cultural Rights, last year.

Persons with disabilities

WHO is actively working to promote and protect the human rights of the 600 million persons, or ten percent of the world's population, living with a disability in one form or another. With regard to mental disabilities, 2001 represented a major breakthrough towards stepping up action to promote and protect the right to the highest attainable standard of mental health. For the first time, World Health Day and the World Health Report addressed the same topic - Mental Health. The day was celebrated in many countries with mass events, including a panel discussion at the 57th session of the Commission on Human Rights on the links between mental health and human rights.

WHO has launched the mental health Global Action Programme (mhGAP.) This five-year initiative is aimed at closing the gap between the available and the needed resources to reduce the burden of mental disorders. It will provide support and guidance to countries and spearhead innovative and practical global mental health activities. In this context, for example, WHO is in the process of developing a mental health legislation manual which aims to strengthen the human rights protections of persons with mental disabilities in national legislative frameworks, as well as training on how to implement the manual. WHO regional offices are also actively involved in addressing the link between mental health and human rights. The Pan-American Health Organization, WHO's regional office for the Americas (PAHO/WHO), is collaborating with the Inter-American Commission on Human Rights (IACHR) by offering technical opinions and assistance on the interpretation of the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man, in light of international standards

on mental disability rights. As a result of the technical assistance provided by PAHO/WHO, the IACHR has issued the Recommendation for the Promotion and Protection of the Rights of the Mentally Ill (28 February 2001).[5]

The United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities and other human rights instruments provide a basis for disability policy development in countries. WHO has accepted to monitor the health component of the UN Standard Rules in collaboration with the UN Special Rapporteur on Disability. A questionnaire based on the Standard Rules for medical care, rehabilitation, support services and personnel training has been elaborated and sent out to WHO Member States and the major Organizations of Persons with Disabilities (DPOs). Reports based on the answers from governments are available. At present reports based on answers from DPOs are being prepared as well as a comparison between governmental and DPO answers.

In order to provide a more specific statement for policy development in relation to health and disability, WHO is preparing a document, "WHO Policy on Disability", which is based on the human rights perspective. The document is intended to be a framework for WHO programmes as well as a means of fostering better and more relevant policies and initiatives for persons with disabilities worldwide. In addition, WHO has recently published the International Classification of Functioning, Disability and Health (ICF) endorsed by the 191 WHO Member States, which, for the first time, provides a framework for collecting evidence on social and other environmental obstacles that all people may face in their lives. These data are essential for protecting persons against human rights abuse, particularly with regard to health and disability.

HIV/AIDS

In the most severely affected settings, HIV/AIDS is jeopardising human security, undermining economic development, and threatening to destroy the fabric of society. Historic improvements in life expectancy and child survival, painstakingly achieved over previous decades, are steadily being eroded. No other disease has so dramatically highlighted the stark injustices and inequities in access to health care, economic opportunity, and the protection of basic human rights as HIV/AIDS.

Three core principles that have long guided the global response to HIV/AIDS will remain central; namely, the need to respect human rights, address poverty, and improve the status of women. These principles are increasingly recognized as vital, especially as awareness grows both of the scale and impact of the pandemic, and of the interventions that are required to address it.

Prevention, care and support are inseparable. The provision of good-quality care and support prolongs and improves the quality of life, and provides opportunities for HIV-prevention efforts. When HIV-positive people are treated with compassion and respect, not only are they more likely to act responsibly towards those around them, but they can also become more powerful and credible advocates of HIV-prevention. On the other

[5] This recommendation was included in the IACHR annual report (2001), constituting the first time the latter has devoted a section to mental disability rights.

hand, when the provision of care is undermined, or those affected by HIV/AIDS are stigmatized, the chances of success of preventative approaches recede.

WHO is developing a global strategy for health-sector responses to the epidemics of HIV/AIDS and sexually transmitted infections as part of the United Nations system's plan for HIV/AIDS for 2001-2005. The outline of this strategy covers core elements of health-sector responses to HIV/AIDS, including: establishing the determinants of the epidemic; defining interventions that will be the most effective in different national settings; enabling national health systems to contribute better to the effectiveness of these interventions; overcoming constraints within national health sectors to expanding health systems action; and providing international support for more effective national responses.

Agenda item 15: Indigenous issues

In conformity with the requirements of Resolution WHA54.16 passed during the Fifty-Fourth World Health Assembly, WHO is preparing a proposed outline for a Global Strategy on the Health of Indigenous Peoples in consultation with WHO Regional and Country Offices.

Agenda item 17: Promotion and protection of human rights:

d) Science and Environment

Bioethics

The Advisory Committee on Health Research Report on Genomics and World Health focuses on the expectations, concerns and possibilities for the use of new genetic knowledge in improving world health. The UN Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to enjoy the benefits of scientific progress and its applications. In this regard, it should be noted that the report focuses on the need for genetic policies that result in benefits being shared among all countries so that risks for all people are reduced.

The potential for new research on the human genome to improve health is clear. For this to be realized, societies throughout the world will need to be served by basic genetic services and research. WHO will help developing countries establish the capacity to respond to emerging genomic issues. An example is the recently announced WHO-NIH/Fogarty US$ 15 million, five-year programme to support joint work by developed and developing countries for strengthening research capacity in genetics and genomics.

Recent developments in cloning have unprecedented ethical implications and raise serious concerns for the safety of individuals and subsequent generations of human beings. WHO recognizes the use of cloning for the replication of human individuals as ethically unacceptable and contrary to human dignity and morality. In addition, related

research and development should be carefully monitored and assessed, with the human rights and dignity of patients respected.

Scientific research involving stem cells, especially those derived from fetal and embryonic tissue, has the potential to yield treatments for medical conditions and diseases for which treatments are currently not available. However, there is a need for a full and open debate among a broad range of interested parties to enable conclusions to be reached on the utility, safety and desirability of scientific research involving stem cells.

The World Summit on Sustainable Development

There is growing consensus that health must play a more prominent role in the World Summit on Sustainable Development than it did at the Conference on Environment and Development (Rio de Janeiro, Brazil, 1992). A major concern of the Summit will be to find ways of tackling obstacles to the implementation of Agenda 21, the plan of action adopted at the Conference. These include integrating trade, investment and finance issues into action for sustainable development and addressing the issues of growing poverty and inequalities. Agenda 21 provided WHO with an important entry point in dealing with sustainable development, but in 1992 limited attention was given to the linkages between health and poverty reduction; health in development policies and practices; health risks and determinants beyond communicable diseases; the impact of economic globalization on health. Based in part on the work of the Commission on Macroeconomics and Health, WHO will present the case that health is central to the overall development process, in other words, a broad approach in which health plays an integrating role, relevant to the social, economic and environmental dimensions of sustainable development. Secondly, it will demonstrate the more specific role of health in relation to the key themes of the Summit. A series of meetings with key partners is currently being held to define the health agenda for the Summit and to develop key policy and advocacy positions, including a think-tank hosted by the Government of Norway (November 2001) and an interministerial meeting hosted by the Government of South Africa (January 2002). The output of these meetings will feed into the formal preparatory process.

Agenda item 18: Effective functioning of human rights mechanisms

a) Treaty bodies

Interaction with the treaty monitoring bodies is a key component in WHO's work to advance health as a human right and to strengthen the international human rights mechanisms in relation to health. WHO is therefore developing an Organization-wide strategy to improve interaction with the treaty bodies. The aim of this strategy is to enhance the collaboration between WHO and the treaty bodies, building upon current and past experiences.

WHO has, for some time, provided systematic input into the deliberations of the Committee on the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women in order to enhance its interaction with states parties on the fulfilment of their obligations to promote and protect the right to health of children, adolescents, women and girls. Last year, moreover, WHO stepped up action to build bridges between human rights approaches and objective indicators of child safety, abuse, and neglect in order to develop practical tools for use by policy makers and practitioners to deliver the best possible preventive interventions. WHO is also engaged in follow-up with the Committee, other United Nations agencies and non-governmental organizations on the international study of violence against children requested of the United Nations Secretary General by the Committee on the Rights of the Child.

Over the past year, WHO has worked closely with the United Nations Office of the High Commissioner for Human Rights to ensure that reproductive and sexual health is taken up adequately by the various human rights committees. Working together with UNFPA, WHO has embarked on a series of briefing sessions with each of the UN treaty monitoring bodies on sexual and reproductive health issues – such as maternal mortality, unsafe abortion, HIV/AIDS and sexually transmitted infections, adolescent sexual and reproductive health, and violence against women – and discussions of the ways in which treaty bodies can take up such issues more effectively to ensure the respect, protection, and fulfilment of relevant human rights.

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